

Memo

To: Montana Wheat and Barley Committee

From: Terry Whiteside

Date: January 23, 2009

Re: Transportation Report



SENATOR ROCKEFELLER, CHAIRMAN OF THE SENATE COMMERCE COMMITTEE – MAKES RAIL COMPETITION LEGISLATION ONE OF HIS PRIORITIES – AT THE CONFIRMATION HEARING OF RAY LAHOOD FOR U. S. DOT

In Chairman Rockefeller's Opening statement in the confirmation hearing of the prospective submitted for the record. Chairman Rockefeller raises the captive rail issue in his opening statement. "On the freight rail side, I'm hoping you'll help us develop ways to improve competition and service in the railroad industry while ensuring that the railroads are able to adequately invest in their infrastructure to meet growing demand."

We believe that the vision of the Commerce Committee's Chairman is very important as we look towards the future of the 111th Congress. Therefore, we have reproduced the Chairman' Opening Statement.

Statement of Chairman John D. Rockefeller, IV Hearing: Nomination Hearing for Representative Ray LaHood to be Secretary of the U.S. Department of Transportation Wednesday, January 21, 2009.

"I want to congratulate you, Mr. LaHood, on your nomination for the position of Secretary of the United States Department of Transportation (DOT). It is a true honor to be selected by President-elect Obama to serve in this important position, and, if confirmed, you will be charged with leading the federal government's efforts to promote mobility and transportation safety across the nation and throughout the world.

As a former member of Congress with experience overseeing executive branch agencies, I know that you are well aware of the challenges that accompany managing such a significant department, with its wide-ranging programs, numerous facilities, and roughly 60,000 employees.

I have no doubt that you will bring strong leadership to the Department and a keen eye for fiscal responsibility that will be essential in this era of constrained budgets and skyrocketing deficits. But, this position will require more than just management expertise and sound judgment.

I don't need to tell you that our nation is facing some of the most challenging times in our history. Nearly 2 million jobs have been lost - we lost more jobs last year than at any time since World War II. Millions of families are hurting, houses are foreclosing, people cannot pay their bills or afford healthcare, and fear is rising at kitchen tables all across America with each passing day.

The grim reality is that the economic situation we face may get worse before it gets better. As President-Elect Obama said a few weeks ago, "Our economy could fall \$1 trillion short of its full capacity, which translates into more than \$12,000 in lost income for a family of four. We could lose a generation of potential and promise as more young Americans are forced to forego dreams of college or the chance to train for the jobs of the future. And our nation could lose the competitive edge that has served as a foundation for our strength and our standing in the world. In short, a bad situation could become dramatically worse."

But what the President-Elect also said, and reiterated yesterday at his inauguration, is that we are a remarkable nation and we absolutely must do all we can to prevent future hardship and work together to stimulate the economy at every turn. I believe we will succeed and good days are ahead. I also believe that the Commerce Committee will play a critical role in rebooting our economy and the Secretary of Transportation must be a leader intensely focused on economic stimulus and job creation.

While the Department has served our nation well over the past 40 years, I strongly believe that if we are going to succeed we absolutely must modernize all operations and move our efforts clearly in to the 21st century. Many of today's federal transportation policies and programs are failing to stimulate the economy and address the needs of the nation's evolving transportation system and this simply must change.

Increased freight and passenger demand has begun to overwhelm our entire transportation network, creating congestion and bottlenecks at our ports, in our skies, and on our roads and rails. In 2007, over 41,000 people were killed in highway accidents, with more than 2,400,000 injured. Out of this total, nearly 5,000 people were killed in large truck crashes. The aviation system still relies on outdated, last-century technology, and the efficiency of the system suffers for it. Transportation-related sources account for over one third of all emissions that contribute to climate change.

I believe that to effectively stimulate the economy, we must have a leader who can embrace innovation and establish a clear national purpose for the Department. Together with the Congress, the incoming Secretary will need to rethink the way that the transportation network operates, the way projects and programs are funded, and the proper role for federal involvement in developing and managing the system. This will not be any easy task, as change is never easy. But for too long, we have rested on the significant transportation investments and wisdom of our predecessors, and I believe the time has come for us to redevelop a clear, cohesive, and comprehensive national transportation policy and investment strategy that will ensure the system's success and our nation's prosperity for generations to come.

In my prior position as Chair of the Aviation Subcommittee, I have had to confront the challenge of change and transformation directly. I developed a comprehensive FAA reauthorization proposal that made certain the FAA would take concrete steps toward modernizing the system, continue to improve safety, and provide sufficient resources for the agency to accomplish these goals. While this bill did not become law last Congress, I believe that we need to seek major changes to our current policies and programs to overcome the years of neglect, under funding, and stagnation that have handicapped our aviation system. We must maintain a National Airspace System (NAS) that brings the benefits of aviation to all Americans, from the largest cities to the nation's small and rural communities. As the nominee for Secretary, I hope that we'll hear today some of your thoughts on this important matter and that you'll be open to working closely together to overcome these problems.

Similarly, the upcoming reauthorization of the nation's surface transportation programs will require a new and progressive approach that can transform our outmoded highway-focused system into an outcome-driven, performance-based, multimodal mobility program that advances clearly-defined national goals. As the Committee responsible for establishing the nation's policies and goals for all modes of transportation, I plan for this Committee to be very active in setting clear objectives for our federal surface transportation programs and we must build a strong partnership to accomplish the type of change that President-elect Obama has discussed and that we all agree must occur.

I'd like to mention several other areas within the Department's jurisdiction in which I have significant interest and for which your leadership will be essential. First, the number of highway deaths is astounding. It is said that using our roads is one of the most dangerous activities in which Americans can take part on a daily basis. This is simply unacceptable. Each year, we lose nearly as many Americans on our highways as we lost in almost 10 years of fighting in Vietnam. I hope we will hear today about your plans to reinvigorate the Department's programs aimed at reducing drunk driving, speeding, and driver fatigue; increasing motor vehicle, motorcycle, and pedestrian safety; and improving safety belt and car seat compliance.

In addition to improving auto safety, it is also clear that our current trucking safety programs and regulations are grossly inadequate and ready for a major overhaul. The number of trucks on the road greatly outnumbers the people who inspect them, which allow too many unsafe, noncompliant trucks to be operating on the same roads that millions of families travel on each day. We need to develop a new oversight method that incorporates innovative technology to better track the safety of trucks on our roads.

Another issue I am increasingly passionate about is climate change, which cuts across all modes of transportation. I plan to further investigate the relationship between transportation and climate change in my role as Chairman, looking at what contribution our transportation system makes to climate change effects and how we should be planning to adapt our transportation network in reaction to those effects. I have been disappointed at the DOT's level of commitment to address climate change issues, in particular its failure to adequately staff and utilize the Office of Climate Change and Environment created by this Committee in 2007. Given the incoming President's leadership on this issue, I am hopeful that you will usher in a new era of proactive engagement at the DOT on the issue of climate change so that we can try to slow, and ultimately reverse, the effects of our unbridled production of carbon dioxide.

One of the most important tasks that awaits you is the promulgation of the Corporate Average Fuel Economy (CAFE) standards that were mandated in the Energy Independence and Security Act of 2007. This Committee was responsible for passing the first increase of the CAFE standards for passenger cars since 1975, and these regulations will increase the fuel economy of the national fleet by 40 percent by model year 2020, and will eliminate 4,376 million metric tons of CO2 by 2030. The implementation of these standards will be the backbone of the program to reduce greenhouse gas emissions in the transportation sector. The DOT is uniquely positioned to manage this task because this agency has the expertise to evaluate the impacts on the safety of the passenger fleet; the mandate to protect the economic health of the automobile industry; and the authority to move the fleet away from the burning of fossil fuels. I fully expect that this agency will continue to exercise its authority and leadership in this area to achieve these necessary goals. I can promise that this Committee will be vigorous in its oversight and tasking of the Department in attacking the threats posed by global warming.

Additionally, after years of neglect, Congress finally passed a long-term Amtrak authorization last fall that provides strong support for our national railroad. As Secretary, I will be looking to you and the Department to fully and quickly implement this bill and to further pursue the development of high-speed rail corridors in areas where such service can help alleviate highway and aviation congestion. On the freight rail side, I'm hoping you'll help us develop ways to improve competition and service in the railroad industry while ensuring that the railroads are able to adequately invest in their infrastructure to meet growing demand.

Finally, I am concerned about the strength of our maritime and freight systems. In this increasingly competitive global economy, America must maintain efficient access to the world's markets. Far too many of our ports and trade corridors are mired by inadequate infrastructure and limited capacity. I want to develop a strong multimodal program that will provide investments in essential port and freight infrastructure projects that have national significance.

In conclusion, the challenges that await you at the Department, should you be confirmed, are vast. Finding solutions for these problems will take extensive courage, creativity, and cooperation in normal times. But, as we all know, these are not normal times, as our nation faces its most serious fiscal crisis since the Great Depression. Tackling these transportation challenges during this crisis will force us to face complex fiscal, environmental, safety, and security issues and will require strong leadership that had been lacking from the previous Administration.

It is imperative that we succeed, however, because a safe and efficient transportation system is essential to America's continued economic vitality, global competitiveness, and most importantly, our quality of life. I look forward to both hearing more from you today about your vision for the future of the Department and working with you to aggressively address these issues.

BNSF SHOWS INCREASING NET PROFITS IN SPITE OF FALLING TRAFFIC

[Burlington Northern 4Q Net Up 19% Amid Fuel Surcharges](#)

- By Bob Sechler Of DOW JONES NEWSWIREs

Burlington Northern Santa Fe Corp.'s (BNI) fourth-quarter net income climbed 19% as higher shipping prices and **fuel surcharges** helped offset lower volumes at the second-largest U.S. railroad operator.

But Chief Executive Matthew K. Rose said the back half of the quarter was hurt by "a significant downshift in economic activity related to the global recession," a trend that has continued into 2009.

Rose said Burlington Northern will earn \$1 a share in the first quarter if the current volume slump remains constant, although he stopped short of calling the figure a formal forecast.

"We don't have clarity around what the volume is going to do," he said in an interview, adding that he produced the figure simply as a "marker" for where things stand.

Wall Street currently expects Burlington Northern to earn \$1.25 in the first quarter, according to Thomson Reuters.

Burlington Northern shares were off 4% in recent after-hours trading at \$62.98, after climbing 7% in Wednesday's regular session.

Rose said the company has opted against providing a full-year financial forecast for 2009 because of the economic uncertainty.

Meanwhile, he said BNSF has initiated a number of actions in response to the declining shipping volumes.

The company expects to have about 5% fewer employees at the end of the first quarter than it had at the same time last year, cuts that Rose said are occurring mainly through attrition and furloughs. BNSF had about 41,000 employees at the end of the 2008 first quarter, meaning the cuts equate to about 2,050 jobs.

In addition, BNSF has about 35,000 freight cars, or 15% of its fleet, in storage and has idled about 700 locomotives, or about 12% of its fleet.

The railroad company also announced that it has lowered its planned 2009 capital spending to \$2.7 billion, about \$150 million below 2008's level, adding that its expansion plans for the year will be minimal.

Still, Rose voiced optimism that BNSF will continue to successfully push through price increases in 2009. But he said they likely will come in below 2008's average 6% increase, which doesn't include fuel surcharges.

Executives at fellow railroad CSX Corp. (CSX) also said Wednesday that they've been able to maintain pricing power amid the downturn, a trend that has been a key to profitability for the railroad industry.

BNSF, which is poised to supplant Union Pacific Corp. (UNP) as the U.S.'s biggest railroad by revenue, reported fourth-quarter net income of \$615 million, or \$1.79 a share, up from \$517 million, or \$1.46 a share, a year earlier.

In October, the company forecast earnings between \$1.70 a share to \$1.80.

Fourth-quarter revenue rose 3% to \$4.37 billion, compared with the \$4.4 billion projected by a Thomson Reuters analyst survey.

Total freight revenue grew 3%, as volume, as measured by rail car units, slid 7%.

Consumer and industrial products revenue decreased 5.1% and 0.8%, respectively, as unit volumes fell amid weakness in the economy. Automotive revenue, counted in consumer goods, fell 14%.

Coal revenue grew 19% due to improved yields and increased unit volumes.

Fuel costs for the railroad decreased 4%. In response to falling oil prices, a Burlington Northern subsidiary that operates a rail network in 28 states and two Canadian provinces last month postponed fuel surcharge hikes that were to take effect in early 2009.

Fuel surcharges, a key component of profitability, have been questioned by some and Burlington Northern is one of several rail operators facing allegations they illegally fixed fuel surcharges.

Last week, RBC Capital Markets lowered its investment rating on Burlington Northern to underperform from sector perform, citing valuation concerns and expectations of volume declines in 2009. Still, RBC predicts railroad freight will benefit from long-term demand, a gain in market share from trucking and improved pricing power.

Shares rose 0.8% to \$66.10 in after-hours trading, after rising 7.1% in the regular session.

-By Bob Sechler, Dow Jones Newswires; 512-394-0285; bob.sechler@dowjones.com

EDITOR'S NOTE:

Traditionally, in past recessions, the Transportation industry has shown weakness early in recessions. The trucking industry in this recession continues to show weakness however the rail industry, with its ability to price with its captive markets has been able, even though its traffic volumes are falling, to maintain increasing net revenues.

This has the effect of creating a wealth transfer from captive rail customers (many of whose business is suffering) to railroad shareholders.